

1 WITNESS: Correct.

2 JUDGE STEINBERG: That went before --

3 BY MR. HONIG:

4 Q And, and no one at the station?

5 A At which station?

6 Q KFUE. Mr. Stortz, Reverend Devantier --

7 A No.

8 Q You didn't tell them?

9 A No.

10 Q Now, Mr. Lauher, we're aware that there's been a
11 transcript made of that tape. Who made the transcript?

12 A I did.

13 Q And could you identify the people to whom you gave
14 either a dub of the tape or the transcript and when?

15 A I gave a copy of the transcript to Kathy yesterday.

16 Q Did she ask you to make the transcript?

17 A No.

18 JUDGE STEINBERG: That's number three.

19 MR. HONIG: Hold on one second.

20 JUDGE STEINBERG: That's today's water, by the way.
21 Just let the record reflect the witness is pouring himself a
22 cup of water and I made a sarcastic comment about the water.

23 MR. HONIG: Can I ask a subsidiary to the last
24 question? It's the last one I have.

25 JUDGE STEINBERG: The very last one on this?

1 MR. HONIG: The very last one.
2 JUDGE STEINBERG: Okay.
3 MR. ZAUNER: Objection, Your Honor. That is --
4 JUDGE STEINBERG: Overruled.
5 MR. ZAUNER: -- three questions.
6 JUDGE STEINBERG: Overruled. He actually had four
7 because one was when and who. That was in like a 3a and 3b.
8 MR. HONIG: Who ultimately paid for the making of
9 the transcript?
10 WITNESS: I typed the transcript at home. Nobody
11 paid for it, unless you consider my time as paying for it.
12 MR. HONIG: All right. Judge, for the reasons I've
13 stated, I don't feel it possible to further cross-examine this
14 witness and therefore I regrettably -- I'm compelled not to
15 ask further questions.
16 JUDGE STEINBERG: Okay.
17 MR. HONIG: I, I, I've made the decision that
18 except for the questions I've already asked it would be a
19 waste of the Court's time and I don't want to do that.
20 JUDGE STEINBERG: Okay. Let's take a short break
21 now and we'll, we'll resume with the Bureau's cross at 11:10.
22 (Whereupon, a brief recess ensued.)
23 JUDGE STEINBERG: Okay. Are you ready, Mr. Zauner?
24 MR. ZAUNER: Yes, Your Honor.
25 JUDGE STEINBERG: We're on the record, right?

CROSS-EXAMINATION

BY MR. ZAUNER:

Q Good morning, Mr. Lauher. My name is Bob Zauner and I'm the attorney for the Mass Media Bureau, Hearing Branch. You and I had a discussion by telephone a couple of weeks ago regarding this case.

A I remember. Yes, I remember.

Q When you were hired at KFUD in approximately May of 1987, were you given any instructions regarding who should or should not be hired at the station?

A No.

Q Were you ever told that minorities should be given a preference? This is at the time you were first hired.

A When I was first hired?

Q When you, when you were first hired --

A I don't recall.

Q -- were, were there any instructions that you should prefer minorities in the hiring practices at the station?

A I don't recall any instructions.

Q Were you given any instruction that Lutherans should be preferred if they were to apply for a position at the station?

A I was not given those instructions. I myself am not a Lutheran.

1 Q Were you given any instructions that seminary
2 students or their spouses should be given any preference in
3 hiring at the station?

4 JUDGE STEINBERG: Which seminary?

5 BY MR. ZAUNER:

6 Q The -- were you given any instructions that student
7 -- seminary students at Concordia Seminary or their spouses
8 should be given any preference in the hiring at the station?

9 A No.

10 Q Were you given any instructions that individuals
11 who had Lutheran training should be given any preference in
12 the hiring of the station?

13 A Well, no. Again, I am not a Lutheran and was not a
14 Lutheran.

15 Q When, when you were hired, you were hired to be --
16 for, for what position?

17 A As the General Manager for KFUD-FM.

18 Q Did your duties include any responsibilities to
19 KFUD-AM?

20 A No.

21 Q And could you distinguish in the program-- between
22 the programming formats of KFUD-AM and KFUD-FM?

23 A Yes. At that time the FM station was a station
24 that played classical music and classical programming. The AM
25 station was a religious oriented radio station, Lutheran

1 denomination.

2 Q Were you hired to -- with any particular purpose in
3 mind by the station? Did they give you any special directions
4 as to what they wanted you to accomplish as the General
5 Manager of the FM station?

6 A Improve the sales of the FM radio station.

7 Q At the time you were hired were you asked or told
8 to hire people with classical music backgrounds?

9 A No.

10 Q While you were at -- let me withdraw that. Were
11 you given any instructions or -- with regard to the recruit-
12 ment of employees for the station?

13 A None that I recall.

14 Q In May of 1987 when you joined the station did the
15 station have any policy with regard to the recruiting of
16 minorities?

17 A There was an EEO program on file at the time as I
18 recall.

19 JUDGE STEINBERG: Can we stop here for a minute?
20 Let me ask Ms. Schmeltzer something. On -- in paragraph 4 of
21 Mr. Lauher -- while we're on this subject, in paragraph 4 of
22 Mr. Lauher's testimony there's a line beginning "1988..."
23 It's about a third of the way down. Do you see that?

24 MS. SCHMELTZER: Right.

25 JUDGE STEINBERG: And it says, "...I reviewed the

1 station's 1982 Model EEO program..." Now, look at Ms.
2 Cranberg's exhibit, Exhibit 8, Attachment 5, page 3. Is that
3 what he's talking about there?

4 MS. SCHMELTZER: I believe so, Your Honor.

5 MR. GOTTFRIED: We -- Your Honor, it might help if
6 you show it to the witness. It might --

7 MS. SCHMELTZER: Can we show the witness --

8 JUDGE STEINBERG: I, I don't have an unmarked up
9 copy.

10 MS. SCHMELTZER: I, I can show it --

11 MR. GOTTFRIED: Oh.

12 MS. SCHMELTZER: -- to the witness.

13 JUDGE STEINBERG: Why don't you have -- why don't
14 you review that sentence with Mr. Lauher --

15 MS. SCHMELTZER: This is --

16 JUDGE STEINBERG: -- paragraph 4. It says, "In
17 December, 1988..." Do you see that sentence?

18 WITNESS: Yes.

19 JUDGE STEINBERG: And why don't you read that to
20 yourself.

21 WITNESS: Um-hum.

22 JUDGE STEINBERG: Okay. Now, you've got in front
23 of you Church Exhibit 8 which hasn't been identified yet but
24 everybody in the room knows what it is. It's Ms. Cranberg's
25 Testimony, which will be identified probably Thursday --

1 unless you want to do it now.

2 MR. ZAUNER: What exhibit is the witness looking
3 at?

4 JUDGE STEINBERG: Eight.

5 MR. GOTTFRIED: Exhibit 8, Attachment 5.

6 JUDGE STEINBERG: Attachment 5. Look at page 3 of
7 Attachment number 5. Just review that to yourself, pages 3 --
8 I guess pages 3 and 4.

9 MR. GOTTFRIED: No, Your Honor. It goes on to
10 page 6.

11 JUDGE STEINBERG: Review pages 3 through 6. And
12 the question is is this what you were referring to when you
13 said, "...I reviewed the station's 1982 Model EEO program..."?
14 Is this what you reviewed, pages 3 through 6, to the best of
15 your recollection?

16 WITNESS: Yes. I do not recall the -- what I
17 recall, the, the chart.

18 JUDGE STEINBERG: Okay. You, you don't recall page
19 -- see, there's a little number on the top with a lot of
20 zeroes and a five, upper left corner?

21 WITNESS: Correct.

22 JUDGE STEINBERG: Okay. You don't recall that?

23 WITNESS: I don't recall seeing that, but yes, this
24 is the, the Equal Employment Opportunity Program that I'm
25 referring to.

1 JUDGE STEINBERG: Pages 3 -- page, page 3, page 4,
2 page 6?

3 MR. GOTTFRIED: I think page 5 is part of it, Your
4 Honor.

5 JUDGE STEINBERG: Well, but, but he said he doesn't
6 recall --

7 MR. GOTTFRIED: Oh, I'm sorry.

8 JUDGE STEINBERG: You know. Just -- I just want to
9 nail him down. So, you're referring to Church Exhibit 8,
10 Attachment 5, page 3, page 4, page 6 when you, when you said,
11 "...I reviewed the station's 1982 Model EEO Program..."?

12 WITNESS: Correct.

13 JUDGE STEINBERG: Okay. Mr. Zauner? I'm sorry I
14 interrupted. I just -- I thought that was an appropriate
15 time --

16 MR. ZAUNER: Okay.

17 JUDGE STEINBERG: -- to do that.

18 BY MR. ZAUNER:

19 Q Let me call your attention to your Exhibit 6 and
20 paragraph 3. I want to go to that sentence where you made the
21 change. You, you indicated there that: "We wanted to hire a
22 variety of people and we (sic) wanted to hire minorities."
23 Who is the "we" there?

24 A The "we" is referring to KFUE-FM.

25 Q Well, there must have been somebody at the station

1 who wanted to hire minorities. Did somebody instruct you to
2 do this?

3 A No. No one instructed. I thought it would be what
4 we should do.

5 Q So, that the "we" then is really yourself, because
6 you're talking about --

7 A Yes.

8 Q -- what you wanted to do as General Manager of --

9 A Yes.

10 Q -- of the station?

11 A Yes.

12 Q When did you first desire to hire minorities?

13 A I don't know that I could answer when I first
14 desired. (Indiscernible.)

15 Q Well, did there come a particular time at which you
16 began to focus on hiring minorities or was this something
17 that, that you had in mind right from the start?

18 A I, I think that would be a fair characterization,
19 yes.

20 Q Which thing?

21 A From the start, right from the start.

22 Q Did you discuss this desire to hire minorities with
23 anyone at the station management above you?

24 A I had hiring discussions with my supervisor about a
25 number of topics. I don't recall any specific conversations

1 one way or the other.

2 Q Would your supervisor have been the Reverend
3 Devantier?

4 A No. My supervisor when I was hired is a gentleman
5 who filled the position of Director of Broadcast Services.

6 Q Do you recall who that was?

7 A Yes. Ken Lombardi.

8 Q Let me go in your Exhibit 6, same paragraph, to the
9 preceding sentence. You indicated that you initiated "...the
10 process of hiring sale work (sic) -- sales workers by contact-
11 ing the St. Louis Broadcast Center and taking out ads in
12 various publications..." Did you consider the St. Louis
13 Broadcast Center to be a minority source or a source of minor-
14 ity employees?

15 A I considered it to be a Equal Employment source.

16 JUDGE STEINBERG: Define what you mean by that?

17 WITNESS: I believe that they did not discriminate.

18 BY MR. ZAUNER:

19 Q What was the St. Louis Broadcast Center?

20 A What was and what is the St. Louis Broadcast
21 Center, it is a school that is generally considered the best
22 of its kind that trains people to become broadcasters in
23 various capacities and it is operated in conjunction with a
24 St. Louis radio station.

25 Q Did you know whether that school had minorities as

1 students?

2 A I can't, I can't state one way or the other.

3 Q Had you ever visited the school?

4 A No.

5 Q Did you personally contact the St. Louis Broadcast
6 Center?

7 A I did contact them, yes.

8 Q Was this with regard to a particular position that
9 was open or was it just a general contact for future refer-
10 rals?

11 A I think during the course of the time it was both.

12 Q Did you express to anyone at the St. Louis
13 Broadcast Center your interest in hiring minorities?

14 A I don't recall what I indicated in any initial
15 contact with them.

16 Q Did you have subsequent -- more than one -- let me
17 withdraw that. Did you have more than one contact with the
18 St. Louis Broadcast Center?

19 A I believe I had more than one contact, yes.

20 Q Do you recollect whether any -- in any of your
21 subsequent contacts with the St. Louis Broadcast Center you
22 indicated a desire to hire minorities?

23 A Again, I don't, I don't recall what specifically I
24 said or didn't say, that I did not have that many contacts.

25 Q In your contacts with the St. Louis Broadcast

1 Center do you recall -- in any of your contacts with the St.
2 Louis Broadcast Center do you recall indicating that the
3 station was an Equal Employment Opportunity employer?

4 A I don't recall.

5 JUDGE STEINBERG: Is the St. Louis Broadcast Center
6 located on Forsythe and Clayton?

7 WITNESS: Yes. I might add given the fact that
8 they operate a station and they're familiar with the rules and
9 the regulations that it would be almost unnecessary to make
10 that kind of statement. They, they certainly are very famil-
11 iar with what should be done.

12 JUDGE STEINBERG: To make what statement?

13 WITNESS: That it would be unnecessary to remind
14 them that, that we are an Equal Employment Opportunity opera-
15 tion because they themselves are one.

16 BY MR. ZAUNER:

17 Q You also indicate in that sentence that you took
18 out ads in various publications including "Broadcasting" and
19 the "St. Louis Dispatch." Would those ads state that the
20 station was an EEO --

21 A As I recall they did.

22 Q When you came to work for the station in May of
23 1987, did you notice that the number of minorities employed by
24 the station was low or almost nonexistent?

25 A No. The one thing that I think it would be fair to

1 recall that I noticed that, that there was a variety of men
2 and women there. There were no, there were no other minori-
3 ties at the time, as I recall anyway.

4 Q Did this raise any concern in your mind?

5 A Well, I think I've addressed that in here, that it
6 was our goal to, to hire minorities.

7 Q Now, did there come a time when you specifically
8 reviewed the station's EEO policies and procedures?

9 A I, I recall specifically reviewing the, the policy
10 and procedures after attending the Missouri Broadcasters
11 Association fall meeting that included the seminar, that we
12 discussed previously, with Mr. Liebowitz.

13 Q And, and that's the meeting that you testified to
14 earlier about that was -- that included a session that was
15 hosted by Matt Liebowitz?

16 A Yes. Yes.

17 Q Is it correct to state that after attending that
18 meeting and hearing Mr. Liebowitz speak that you became con-
19 cerned to determine whether or not KFUD-FM was in compliance
20 with EEO requirements?

21 A I think it's safe to say that I was concerned to
22 make sure that, that all of the procedures that he discussed
23 were indeed being followed.

24 Q As part of this process of reviewing the station's
25 EEO compliance, what was the first step that you took?

1 A I, I don't know that I can recall that step number
2 one is such.

3 Q There were a couple of steps that you took. One,
4 you spoke to Marcia Cranberg. Is that correct?

5 A That is correct.

6 Q Another step you took is you prepared a memo to
7 Paul Devantier. Is that correct?

8 A That is correct.

9 Q Another step you took was you prepared a checklist
10 in which you went through to see whether or not the station
11 was in compliance?

12 A No, that is not correct. I had obtained a check-
13 list. I don't recall whether that came from -- well, it came
14 from a publication. I don't recall if that was part of the
15 materials from the seminar that I just mentioned or if I
16 obtained it separate from that. It was a, it was a preprint-
17 ed, prepublished checklist.

18 Q I'm going to call your attention to Church Exhibit
19 7, Attachment 5.

20 JUDGE STEINBERG: Just for the record, Church
21 Exhibit --

22 MR. ZAUNER: Church Exhibit 7 is the Testimony of
23 Reverend Paul Devantier.

24 JUDGE STEINBERG: Okay. This hasn't been identi-
25 fied yet either but will be later this week.

1 MS. SCHMELTZER: Attachment 5?

2 WITNESS: Correct.

3 BY MR. ZAUNER:

4 Q Would you take a moment, sir, and, and look at this
5 memo and could you tell us whether this was a memo that was
6 written by you?

7 A Yes. This is a memo that I wrote.

8 Q Is it correct to say that this memo was prepared,
9 at least in part, in response to your having attended the
10 seminar with Matt Liebowitz that you mentioned earlier?

11 A Yes, that's correct.

12 Q I want to call your attention to page 5, section
13 entitled "EEO Compliance."

14 JUDGE STEINBERG: Are you talking about the numbers
15 in the top left -- the top right with the zeros preceding it?

16 BY MR. ZAUNER:

17 Q I see the first sentence there indicates that EEO
18 compliance is the most critical area in license renewal. Was
19 that your opinion after having heard Mr. Liebowitz speak?

20 A That was Mr. Liebowitz's opinion and he was very
21 persuasive.

22 Q Did you also speak to Marcia Cranberg --

23 A Yes.

24 Q -- prior to writing this memo?

25 A Yes.

1 Q Was that also her opinion?

2 A I don't recall if her opinion was quite as, as
3 strong as Mr. Liebowitz's, but she certainly did not dismiss
4 it in any way.

5 Q You, you indicate there that the question is is the
6 station following its own plan. What, what do you mean by
7 that?

8 A That was actually a question that Mr. Liebowitz
9 raised during the seminar, as I recall, where he was reminding
10 those in attendance with the EEO plan under which you operate
11 at your particular radio station, remember that that is your
12 plan, not a plan imposed on anyone but it is your plan that
13 you have put together. And he then asked those attending the
14 seminar the question is: are you following your plan?

15 Q You say in the next sentence, "As described below
16 there are plenty of areas for improvement in our compliance."
17 What did you mean by that?

18 A Well, I, I think I referred to them specifically --
19 that would have been later. The, the -- it had to do with the
20 inadvertent dropping of the Equal Employment Opportunity
21 statement on the job application form and the fact that the
22 EEO policy under which we were working had not been updated to
23 reflect a change in personnel.

24 Q I, I'm sorry. I missed the -- just the very last
25 part of your answer.

1 A And that the EEO policy that we were operating
2 under, our combined stations' policy actually, had not been
3 updated to reflect changes in personnel, specifically the
4 individual who was responsible for the EEO Program.

5 Q You, you say in your memo that there were
6 "...plenty of areas for improvement in our compliance..." and
7 now you're providing us with two, one being updating a name on
8 a form. Is that correct?

9 A I provided you with two, correct.

10 Q Were there other areas for improvement in compli-
11 ance other than those that, that you've just given us?

12 A Well, I think that, I think that those were the two
13 that appeared to be things that needed to be addressed. In
14 addition to that I had asked Marcia Cranberg her opinion
15 regarding the two stations having, having a combined, a com-
16 bined EEO policy and that she felt that that was a -- whether
17 she felt that was appropriate or inappropriate given the
18 distinct -- the different natures of the two radio station
19 operations. And as a result of being concerned about that
20 aspect, that would --

21 (Pause.)

22 BY MR. ZAUNER:

23 Q Again, let me call your attention to Church
24 Exhibit 8, which is the Testimony of Marcia Cranberg,
25 Attachment 5. Your, your testimony about the noncompliance

1 with the station's own plan, that testimony relates to the
2 plan as set forth in the 1982 filing with the Commission, is
3 that correct, which is pages beginning with 0003 and continu-
4 ing in that exhibit?

5 A Yes. I am referring in the memo to this plan.

6 Q It says there on page 000--

7 JUDGE STEINBERG: Just call it three.

8 MR. ZAUNER: It's start with four zeros, and let me
9 just call it page four.

10 JUDGE STEINBERG: Page four?

11 BY MR. ZAUNER:

12 Q Page 4. That "...when vacancies do occur it is the
13 policy of KFUE and KFUE-FM to seek out qualified minority and
14 female applicants..." How did KFUE and KFUE-FM seek out
15 quality minority and female applicants, to your mind?

16 A I cannot answer that with relationship to KFUE-AM,
17 and I believe I've already indicated what KFUE-FM did.

18 Q That would be the use of sources which you believed
19 did not discriminate in referring --

20 A Correct.

21 Q -- applicants? Would that be a correct summary of
22 what you've said?

23 A Yes. Correct.

24 Q Then the next sentence indicates, "We deal only
25 with employment services including state employment agencies

1 which referred job candidates without regard to their race,
2 color, religion, national origin, or sex." Did, did you ever
3 use a state employment agency in seeking applicants?

4 A I don't recall using a state employment agency for
5 the FM, no.

6 Q As of the time that you wrote this memo, which was
7 March 19-- March 9, 1989, had the station sought qualified
8 minority and female applicants from any employment services to
9 your knowledge?

10 A I can't answer what happened prior to my arrival.

11 Q During your period of time at the station and up
12 until the time that you wrote the March 9, 1989, memo, had
13 there been any use of employment services in recruiting em-
14 ployees at the station?

15 A The Broadcast Center would be considered an employ-
16 ment agency. That is part of their function. So, in that
17 respect the answer is yes.

18 Q During the period from May of 1987 through March of
19 -- March 9th of 1989, can you give us an approximation, or the
20 actual number if you know, of employees that were hired for
21 KFYO-FM?

22 MS. SCHMELTZER: There is an exhibit which sets
23 forth all of the hires, and so we could find that out from
24 that exhibit. Mr. Lauher is not sponsoring that exhibit.

25 MR. ZAUNER: Counsel is correct.

1 JUDGE STEINBERG: Exhibit -- Church Exhibit 4,
2 Attachment 6?

3 MR. GOTTFRIED: That's correct, Judge.

4 MS. SCHMELTZER: Yes, that's correct.

5 JUDGE STEINBERG: Is the number --

6 MR. ZAUNER: We can, we can calculate that number.

7 JUDGE STEINBERG: Is the number important?

8 MR. ZAUNER: I don't, I don't believe we do this as
9 testimony. Counsel is correct. I withdraw the question.

10 BY MR. ZAUNER:

11 Q Let me call your attention to page 3 of --

12 A Three of what?

13 Q Church Exhibit 8, Attachment 5.

14 A Okay.

15 Q Now, you indicated in your testimony that there was
16 a name of the person who was responsible for the EEO policy
17 that was not, at least, current. Can you -- is that the
18 Reverend Roger P. -- and I won't try, try to pronounce it --

19 A Abatie.

20 Q A B A T I E?

21 A Abatie.

22 Q Abatie?

23 A Yes. That is the individual I was referring to.

24 Q So, one of your concerns was that, that his name
25 should be changed as the, as the person responsible for the

1 administration implementation of the station's Equal
2 Employment Opportunity Program, is that correct?

3 A Yes.

4 Q Now, you indicated that you were concerned about
5 having a combined EEO policy for the two stations, the AM and
6 the FM. What, what was your concern in that regard?

7 A My concern in that regard is that as the policy
8 stated in, in this program --

9 JUDGE STEINBERG: "This program" meaning --

10 WITNESS: This page three -- starting with page
11 three we were just referring to, Your Honor.

12 JUDGE STEINBERG: Exhibit 8, Attachment 5, page 3?

13 WITNESS: Yes. The application -- my concern was
14 with a joint EEO Program for the two, for the two stations
15 that were distinctly different in their needs and, and re-
16 quirements for hiring might create a difficulty in impression,
17 confusion because there were some, as Marcia suggested, legit-
18 imate reasons for the AM station to ask questions of a reli-
19 gious nature, nature for certain of those positions and that
20 that would be completely appropriate, although the FM would
21 not be hiring people with, with that kind of background or
22 requirement. And therefore I wanted to get some opinion as to
23 which would be a better way and a clearer way to operate.

24 If --

25 BY MR. ZAUNER:

1 Q When you're talking about the difference between
2 the two stations and the one having a religious background,
3 are you referring now to the letter that Marcia Cranberg sent
4 to you which provided you with a discussion of the Kings
5 Garden case?

6 A Where is that?

7 Q Let me call your attention to the Church Exhibit 8,
8 which is the Testimony of Marcia Cranberg, and particularly
9 Attachment 6 thereof.

10 A Yes. She indicated in the second paragraph that
11 for certain limited employment categories it is possible to
12 restrict employment to those of a particular religious affili-
13 ation. And as a result of having -- I think that requirement
14 was on the joint job application at the time. I was concerned
15 that this may give an appearance that -- it proved to offer
16 some confusion and difficulty.

17 MR. GOTTFRIED: Can we --

18 MS. SCHMELTZER: Bob --

19 JUDGE STEINBERG: We're on the record.

20 MS. SCHMELTZER: Can we go off the record, please?

21 JUDGE STEINBERG: Let's go off the record.

22 (Off the record.)

23 (On the record.)

24 BY MR. ZAUNER:

25 Q You have indicated that one of your concerns was

1 that certain documents used for both stations may have been
2 more appropriate to one station than the other in terms of
3 hiring new employees. Is that correct?

4 A Yes.

5 Q I'm going to show you a copy of an application for
6 employment. I'm going to ask you if this document contains
7 the statement that caused your concern. This has not been
8 exchanged as an exhibit by any of the Parties to my knowledge,
9 although there's so much paper here I'm not sure. So, at this
10 time I'm going to hand the court reporter two copies of the
11 document.

12 JUDGE STEINBERG: Are you going to ask that this be
13 identified and marked in evidence?

14 MR. ZAUNER: Yeah. So, I take it Your Honor
15 wants --

16 JUDGE STEINBERG: No, I don't. Thanks.

17 MR. ZAUNER: Your Honor, at this time I would like
18 to have marked for identification as Mass Media Bureau Exhibit
19 25 a two-page document, the first page of which bears the
20 heading "Application for Employment" and also indicates its --
21 has an indication that it's of The Lutheran Church/Missouri
22 Synod on the first page. The second page is a continuation of
23 the first page and includes places for information on personal
24 references and previous employment and it appears to be a
25 application for employment with The Lutheran Church/Missouri

1 Synod.

2 JUDGE STEINBERG: Okay. The document described
3 will be marked for identification as Mass Media Bureau Exhibit
4 No. 25.

5 (Whereupon, the document referred
6 to as Mass Media Bureau Exhibit
7 No. 25 was marked for
8 identification.)

9 JUDGE STEINBERG: Let me just note for the record
10 that Exhibits 1 through 24 were exchanged but they haven't
11 been identified yet. We're just picking up. And if anybody's
12 interested, come back later in the week and find out what 1
13 through 25 are. Just referring to the audience. That should
14 keep the suspense up.

15 BY MR. ZAUNER:

16 Q The, the, the language that you indicated had
17 concerned you, does it appear on what's now been identified as
18 Mass Media Bureau Exhibit No. 25?

19 A Yes.

20 Q And would you point out that language?

21 A It is at the bottom of the first sheet, which would
22 be 3126, starting with, "Because we are a church body..."

23 Q Okay. Could you read that language into the
24 record?

25 A Yes. "Because we are a church body, The Lutheran

1 Church/Missouri Synod retains the right to give preference in
2 the hiring of persons who are members in good standing of an
3 LCMS congregation."

4 Q Were you concerned by any other information con-
5 tained on the application form?

6 A I, I was concerned about something that had been
7 left off the form.

8 Q And what is that?

9 A That is the, the more specific statement regarding
10 the radio station KFYO-FM being an Equal Employment
11 Opportunity Employer.

12 Q Let me call your attention to the information under
13 "Personal Data" on the first page of that document where it
14 calls for information --

15 A Oh. I see something there that -- where that's
16 part of religious affiliation. I was concerned about that.

17 Q Would you tell us what that is?

18 A (Indiscernible.)

19 Q I, I'm sorry. I'm having difficulty hearing here.

20 A I'll try to be louder.

21 Q Your, your last answer was?

22 A You directed my attention up to the "Personal
23 Data," and as I was going up there I noticed the, the blank
24 for religious affiliation that reminded me I was concerned
25 about that as well.